

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

NEXTGEAR CAPITAL, INC.,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. 18-CV-01086-NCC
	)	
BANK OF SPRINGFIELD,	)	
	)	
Defendant.	)	

**DEFENDANT’S RESPONSE TO PLAINTIFF’S  
MOTION TO SCHEDULE RULE 16 CONFERENCE**

Defendant Bank of Springfield (“BOS”) does not agree that NextGear’s Second Amended Complaint presents any “disputed facts,” “factual issues” or any other circumstances that call for the Court to expedite scheduling a Rule 16 conference. To the contrary, NextGear’s third attempt to plead its case merely substituted rhetoric and legal conclusions for previously alleged facts that no longer fit NextGear’s legal theories.

BOS appreciates NextGear’s apparent interest in talking settlement, but BOS does not understand NextGear’s sudden sense of urgency. Gateway’s financial woes began as early as 2016 and culminated with an April 2018 bankruptcy filing. NextGear filed this case on July 3, 2018 and waited until mid-August to contact BOS’s attorneys regarding service. NextGear has filed two amended pleadings, the second in response to BOS’s motion to dismiss the First Amended Complaint.

BOS admittedly takes a cynical view of NextGear’s current motion which, to BOS, appears to be more an effort to argue NextGear’s opposition to BOS’s pending motion to dismiss—hence, the otherwise unnecessary references to “disputed facts,” etc. BOS respectfully requests that the Court deny NextGear’s Motion.

STONE, LEYTON & GERSHMAN,  
A PROFESSIONAL CORPORATION

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**PROOF OF SERVICE**

I hereby certify that on March 4, 2019, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

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